



## **DEPARTMENT OF HOMELAND SECURITY**

### **Coast Guard**

### **33 CFR Part 110**

**[Docket Number USCG-2016-0916]**

**RIN 1625-AA01**

### **Anchorage; Captain of the Port Puget Sound Zone, WA**

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of proposed rulemaking.

---

**SUMMARY:** The Coast Guard proposes the creation of several new anchorages and holding areas as well as a non-anchorage area, the expansion of one existing general anchorage, and the establishment of new and clarification of existing regulations governing such anchorages and areas in the Puget Sound area. This action is necessary to provide enhanced safety for maritime traffic in the Puget Sound area. We invite your comments on this proposed rulemaking.

**DATES:** Comments and related material must be received by the Coast Guard on or before **[INSERT DATE 90 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**ADDRESSES:** You may submit comments identified by docket number USCG-2016-0916 using the Federal eRulemaking Portal at <http://www.regulations.gov>. See the “Public Participation and Request for Comments” portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

**FOR FURTHER INFORMATION CONTACT:** If you have questions about this proposed rulemaking, call or email Mr. Laird Hail, U.S. Coast Guard Sector Puget Sound; telephone 206-217-6051, e-mail SectorPugetSoundWWM@uscg.mil.

**SUPPLEMENTARY INFORMATION:**

**I. Table of Abbreviations**

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
FR	<b>Federal Register</b>
NPRM	Notice of proposed rulemaking
§	Section
U.S.C.	United States Code

**II. Background, Purpose, and Legal Basis**

Previous rulemakings defined a number of anchorages and one non-anchorage area throughout the greater Puget Sound area. Since those rulemakings, additional informal anchorages, holding areas, and a non-anchorage area have been utilized to accommodate the wide variety of vessels now calling on Puget Sound ports. Coast Guard Vessel Traffic Service (VTS) Puget Sound, working with shipping agents, pilots, and other stakeholders, identified and started using these anchorages and areas to improve the safety of maritime traffic. Because these anchorages and areas are not formally established, however, they are not included on nautical charts, referenced in the Coast Pilot, or subject to regulations. Accordingly, this proposed rule would formally designate these anchorages and areas. In addition, it would establish new and clarify existing regulations governing the use of all anchorages and areas in the Puget Sound area. The purpose of these actions is to improve the safety of all Puget Sound waterway users. The Coast Guard proposes this rulemaking under the authority established in 33 U.S.C. 471,

1221 through 1236, 2071; 33 CFR 1.05-1; and Department of Homeland Security Delegation No. 0170.1.

### **III. Discussion of Proposed Rule**

This rulemaking proposes the creation of several new anchorages, holding areas, and a non-anchorage area as well as the expansion of one existing general anchorage in the Puget Sound area, as detailed in the proposed regulatory text. Graphic depictions of the anchorages, holding areas, and non-anchorage area are included in the docket. In general, they are located in the vicinity of Port Townsend, Commencement Bay, Port Angeles, Vendovi Island, Quartermaster Harbor, and Budd Inlet. The proposed anchorages and areas have been used for many years informally, however, they are not included on nautical charts, referenced in the Coast Pilot, or subject to anchorage regulations. This rulemaking also proposes new and updated regulations governing anchorages and areas in the Puget Sound area, as detailed in the proposed regulatory text. In general, they clarify the existing regulations establishing rules for the use of anchorages and areas generally and create new anchorage regulations establishing rules for the use of the new anchorages and areas created by this rule. The codification of these anchorages and areas, along with the new and updated regulations, would improve the safety of all Puget Sound waterway users by having the anchorages and areas included on nautical charts, referenced in the Coast Pilot, subject to appropriate regulations, and available to VTS Puget Sound whenever necessary to manage vessel traffic.

### **IV. Regulatory Analyses**

We developed this proposed rule after considering numerous statutes and

Executive Orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive Orders.

#### A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This NPRM has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, the NPRM has not been reviewed by the Office of Management and Budget.

This determination is based on the fact that the affected areas of the Puget Sound have been used historically as informal anchorages and areas in the manner proposed and the new and updated regulations will not impose significant limitations on the current use of the existing or new anchorages or areas.

#### B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities.

While some of the maritime users intending to use the affected areas of the Puget Sound may be small entities, for the reasons stated in section IV.A. above this proposed rule would not have a significant economic impact on such entities.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this proposed rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

#### C. Collection of Information

This proposed rule would not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

#### D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this proposed rule under that Order and have determined that it is consistent with the fundamental federalism principles and

preemption requirements described in Executive Order 13132.

Also, this proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. Regardless, the Coast Guard consulted with the Indian Tribal Governments having an interest in the affected waters when considering this rule. Their primary concerns were related to potential restriction of access to Usual & Accustomed fishing grounds, and as such, the Coast Guard has included specific provisions in the anchorage regulations created by this rule to accommodate those concerns. If you believe this proposed rule has implications for federalism or Indian tribes, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

#### E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rulemaking elsewhere in this preamble.

#### F. Environment

We have analyzed this proposed rule under Department of Homeland Security

Management Directive 023-01 and Commandant Instruction M16475.ID, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321-4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves the establishment and changing the size of anchorage grounds. Normally such actions are categorically excluded from further review under paragraph 34(f) of Figure 2-1 of Commandant Instruction M16475.ID. A preliminary environmental analysis checklist and Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

#### **V. Public Participation and Request for Comments**

We view public participation as essential to effective rulemaking, and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

We encourage you to submit comments through the Federal eRulemaking Portal at <http://www.regulations.gov>. If your material cannot be submitted using <http://www.regulations.gov>, contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

We accept anonymous comments. All comments received will be posted without change to <http://www.regulations.gov> and will include any personal information you have provided. For more about privacy and the docket, you may review a Privacy Act notice regarding the Federal Docket Management System in the March 24, 2005, issue of the **Federal Register** (70 FR 15086).

Documents mentioned in this NPRM as being available in the docket, and all public comments, will be in our online docket at <http://www.regulations.gov> and can be viewed by following that website's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted or a final rule is published.

#### **List of Subjects in 33 CFR Part 110**

Anchorage grounds

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 110 as follows:

#### **PART 110--ANCHORAGE REGULATIONS**

1. The authority citation for part 110 continues to read as follows:

**Authority:** 33 U.S.C. 471, 1221 through 1236, 2071, 33 CFR 1.05-1;

Department of Homeland Security Delegation No. 0170.1.

2. In § 110.230—

- a. Add paragraph (a)(3)(iii),
- b. Revise paragraphs (a)(13) and (14),
- c. Add paragraphs (a)(15) through (17),
- d. Revise paragraph (b), and



e. Add paragraph (c).

The additions and revisions read as follows:

§ 110.230 Anchorages, Captain of the Port Puget Sound Zone, WA.

\* \* \* \* \*

(a) \* \* \*

(3) \* \* \*

(iii) *General Anchorage.* All waters of Port Townsend shoreward of a line starting at latitude 48° 06' 33"N, longitude 122° 46' 00"W; thence to latitude 48° 05' 52"N, longitude 122° 45' 04"W; thence to latitude 48° 05' 22.9"N, longitude 122° 46' 00"W; thence to Kala Pt., latitude 48° 03' 29"N, longitude 122° 46' 00"W.

\* \* \* \* \*

(13) *Commencement Bay Anchorages.*

(i) *Commencement Bay General Anchorage.* All waters of Commencement Bay east of a line starting at latitude 47° 16' 44"N, longitude 122° 28' 20"W, thence to latitude 47° 18' 00"N, longitude 122° 26' 36.5"W.

(ii) *Ruston General Anchorage.* All waters of Commencement Bay within an area beginning at latitude 47° 18' 34.5"N, longitude 122° 30' 22.5"W; thence to latitude 47° 18' 48"N, longitude 122° 29' 48"W; thence to latitude 47° 18' 11.1"N, longitude 122° 29' 03.5"W; thence to latitude 47° 17' 56"N, longitude 122° 29' 37"W.

(14) *Port Angeles Anchorages.*

(i) *Non-anchorage area Port Angeles Harbor.* Beginning at a point on the shore at latitude 48°07'03.83" N., longitude 123°24'20.67" W.; thence to latitude 48°07'38.43" N., longitude 123°24'04.67" W.; thence to latitude 48°07'36.03" N.,

longitude 123°23'50.67" W.; thence to a point on the shoreline at latitude 48°06'56.73" N., longitude 123°24'08.67" W.

(A) No vessel may anchor in this non-anchorage area at any time.

(B) Dragging, seining, fishing, or other activities which may foul underwater installations within this non-anchorage area are prohibited.

(C) Vessels may transit this non-anchorage area, but must proceed by the most direct route and without unnecessary delay.

(D) The city of Port Angeles will mark this area with signs on the shoreline visible (during normal daylight) 1 mile to seaward reading, "Do not Anchor in This Area."

(ii) *Port Angeles General Anchorage.* All waters in Port Angeles Harbor that lie west of a line drawn from Ediz Hook, latitude 48° 08' 23"N, longitude 123° 24' 02"W; to latitude 48° 08' 23"N, longitude 123° 22' 07"W; thence to latitude 48° 07' 42"N, longitude 123° 22' 07"W; thence to latitude 48° 07' 42"N, longitude 123° 24' 08"W; thence to latitude 48° 07' 14.9"N, longitude 123° 24' 28.2"W.

(iii) *Port Angeles Tug and Barge Holding Area West.* All waters in Port Angeles Harbor that lie west of the line of longitude 123° 27' 17"W.

(iv) *Port Angeles Tug and Barge Holding Area South.* All waters in Port Angeles Harbor inside the area beginning at latitude 48° 07' 42"N, longitude 123° 24' 08.0"W; thence to latitude 48° 07' 16.2"N, longitude 123° 25' 37.1"W; thence to latitude 48° 07' 14.9"N, longitude 123° 24' 28.2"W; thence back to the point of origin.

(v) *Port Angeles Tug and Barge Holding Area East.* All waters in Port Angeles Harbor inside the area beginning at latitude 48° 07' 42"N, longitude 123° 23'

45.7"W; thence to latitude 48° 07' 13.8"N, longitude 123° 23' 54.7"W; thence to latitude 48° 07' 34.4"N, longitude 123° 22' 55.8"W; thence to latitude 48° 07' 42"N, longitude 123° 22' 55.8"W thence back to the point of origin.

(15) *Vendovi Anchorages.*

(i) *Vendovi South General Anchorage.* All waters shoreward of a line beginning at latitude 48° 36' 40"N, longitude 122° 36' 51"W; thence to latitude 48° 35' 34"N, longitude 122° 36' 51"W; thence to latitude 48° 35' 34"N, longitude 122° 35' 53.62"W; thence to latitude 48° 36' 31.38"N, longitude 122° 35' 53.62"W.

(ii) *Vendovi East General Anchorage.* All waters in an area beginning at latitude 48° 37' 43"N, longitude 122° 34' 45.5"W; thence to latitude 48° 37' 43"N, longitude 122° 31' 44"W; thence to latitude 48° 35' 43"N, longitude 122° 31' 44"W; thence to latitude 48° 35' 43"N, longitude 122° 34' 45.5"W; thence to point of origin.

(iii) *Jack Island North Tug and Barge Holding Area.* All waters within a circular area centered at latitude 48° 35' 22"N, longitude 122° 37' 20"W, with a radius of six hundred yards.

(iv) *Jack Island South Tug and Barge Holding Area.* All waters within a circular area centered at latitude 48° 34' 24"N, longitude 122° 36' 13.5"W, with a radius of six hundred yards.

(v) *William Point Articulated Tug and Barge Anchorage.* All waters within an area beginning at latitude 48° 35' 00"N, longitude 122° 33' 07"W; thence to latitude 48° 35' 00"N, longitude 122° 31' 20"W; thence to latitude 48° 35' 28"N, longitude 122° 31' 20"W, thence to latitude 48° 35' 28"N, longitude 122° 33' 00"W, thence to latitude 48° 35' 15.5"N, longitude 122° 33' 12"W.

(16) *Quartermaster Harbor General Anchorage.* All waters of Quartermaster Harbor south of latitude 47° 20' 54"N and north of a line beginning at latitude 47° 19' 53"N, longitude 122° 29' 28 "W and ending at latitude 47° 20' 37"N, longitude 122° 27' 18"W.

(17) *Budd Inlet Anchorages.*

(i) *Budd Inlet General Anchorage.* All waters of Budd Inlet north of latitude 47° 06' 00"N, and south of latitude 47° 08' 00"N.

(ii) *Budd Inlet North General Anchorage.* All waters of Budd Inlet within an area beginning at Dofflemyer Point, at latitude 47° 08' 25.87"N, longitude 122° 54' 26"W; thence to latitude 47° 08' 25.87"N, longitude 122° 55' 34.5"W; thence to latitude 47° 08' 51"N, longitude 122° 55' 32"W; thence to latitude 47° 09' 24"N, longitude 122° 55' 32"W, thence to latitude 47° 10' 00"N, longitude 122° 55' 11"W; thence to latitude 47° 10' 00"N, longitude 122° 54' 00"W; thence to latitude 47° 09' 31.1"N, longitude 122° 54' 00"W, thence to latitude 47° 09' 00.8"N, longitude 122° 54' 26"W, thence to the point of origin at Dofflemyer Point.

(b) *General regulations.* (1) Deep-draft vessels, including articulated tug and barge combinations, over 200 feet in length and any vessel carrying explosives, operating in the COTP Puget Sound Zone must anchor only in a designated anchorage described in paragraph (a) of this section except as may be necessary for safety or security reasons. Such vessels must obtain permission from the Captain of the Port (COTP) Puget Sound to use a designated anchorage and should request permission at least 48 hours prior to arrival by contacting Vessel Traffic Service (VTS) Puget Sound.

(2) Any vessel not covered in paragraph (b)(1) of this section may anchor

and/or operate in a designated anchorage described in paragraph (a) of this section at any time so long as such anchorage or operations do not interfere with the anchorage or operation of a vessel covered in paragraph (b)(1) of this section that is utilizing the designated anchorage.

(3) All vessels anchoring or operating in a designated anchorage described in paragraph (a) of this section must follow any lawful direction given to them by the COTP Puget Sound or VTS Puget Sound regarding the movement, operation, or anchorage of their vessel, to include any order to depart the designated anchorage.

(4) Any vessel in a condition such that it is likely to sink or otherwise become a menace or obstruction to the anchorage or operation of other vessels is prohibited from anchoring or operating in a designated anchorage described in paragraph (a) of this section except as may be necessary for safety or security reasons, unless otherwise authorized by the COTP Puget Sound.

(5) Any vessel greater than 1600 gross tons anchored in a designated anchorage described in paragraph (a) of this section must maintain the capability to get underway within 30 minutes, unless otherwise authorized by the COTP Puget Sound.

(6) No vessel may anchor in a “dead ship” status (propulsion or control unavailable for normal operations) in a designated anchorage described in paragraph (a) of this section, unless otherwise authorized by the COTP Puget Sound.

(7) Within the Anacortes Anchorages described in paragraph (a)(10) of this section, lightering operations must only be conducted in the Anacortes West and Anacortes Center anchorages, unless otherwise authorized by the COTP Puget Sound.

(8) Tug and barge holding areas are for the use of tug and barge combinations

and fishing vessels less than 200 feet, for a period not to exceed 10 days. Other vessels may anchor or operate in such areas at any time so long as such anchorage or operations do not interfere with the anchorage or operation of a tug and barge combination or fishing vessel less than 200 feet utilizing the area.

(9) Within the Cap Sante and Hat Island Tug and Barge Anchorages, described in paragraphs (a)(11) and (12) of this section, tugs and barges are required to ensure their vessels and barges do not project beyond the holding area's boundaries, unless otherwise authorized by the COTP Puget Sound.

(10) Within any tug and barge holding area, a tug must be manned, remain in attendance with the barge, and maintain a communications guard with VTS on an appropriate VTS VHF working frequency as defined in 33 CFR 161.12(c) at all times.

(11) The COTP Puget Sound and VTS Puget Sound will, to the maximum extent possible, manage the use of the designated anchorages described in paragraph (a) of this section to avoid or minimize any impact of the use of such anchorages on Indian tribal fisheries. In so doing, the COTP and VTS Puget Sound will maintain close liaison with the Indian tribes that could be affected to ensure Coast Guard awareness of such fisheries.

(c) *Explosives anchorages.* In addition to the general regulations in paragraph (b) of this section, the following regulations apply to each explosives anchorage described paragraph (a) of this section.

(1) Explosives anchorages are reserved for vessels carrying explosives. Other vessels may anchor or operate in such anchorages only when no vessel anchored in the explosive anchorage is displaying by day a red flag at least 16 square feet in area at its

mast head or at least 10 feet above the upper deck if the vessel has no mast, and by night a red light in the same position specified for the flag, unless otherwise authorized by the COTP.

(2) All vessels carrying explosives in the COTP Puget Sound Zone must be within an explosives anchorage when anchored, except as may be necessary for safety or security reasons or otherwise authorized by the COTP, and must at all time have a competent watchman on board the vessel or a tug in attendance.

(3) Whenever any vessel carrying explosives not fitted with mechanical power anchors is anchored in the COTP Puget Sound Zone, the COTP may require the attendance of a tug upon such vessel, when, in his or her judgment, such action is necessary.

(4) Any vessel carrying explosives at anchor in an explosives anchorage must display by day a red flag at least 16 square feet in area at its mast head or at least 10 feet above the upper deck if the vessel has no mast, and by night a red light in the same position specified for the flag. These signals shall be in addition to day signals and lights required to be shown by all vessels when at anchor.

(5) No explosives handling in any explosives anchorage will be undertaken by any vessel unless COTP personnel are on board to supervise the handling operations.

Dated: January 18, 2017.

**M. E. Butt,**

*Rear Admiral, U.S. Coast Guard,*

*Commander, Thirteenth Coast Guard District.*

**BILLING CODE 9110-04-P**

[FR Doc. 2017-02683 Filed: 2/9/2017 8:45 am; Publication Date: 2/10/2017]